

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

JAN 20 2004

Case No. 5397
 Date Filed 01/13/04
 Hearing Date _____
 Receipt _____
 Fee _____

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code _____

- _____ Administrative Decision/Interpretation
 _____ Special Exception
 _____ Use Variance
 _____ Change/Extension of Non-Conforming Use
 _____ Minor Area Variance
☒ Area Variance
☒ Variance from Requirements of the Code
 _____ Zoning Map/Drafting Correction

CASE 5397 MAP 60 TYPE Variances

ELECTION DISTRICT 3 LOCATION 1106 Old Joppa Road, Joppa, Md. 21085

BY Melvin G. and Eva L. Quick

Appealed because a variance pursuant to Section 267-27B(8)(b)(1) and (8) of the Harford County Code to allow cottage housing in a mobile home on less than 2 acres (1.94 acres existing) and to be occupied by a non-relative in an Agricultural District requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Melvin G. Quick, Jr. Phone Number 410 803-0506

Address 1106 Old Joppa Road Joppa MD 21085
Street Number Street City State Zip Code

Co-Applicant Eva L. Quick Phone Number 410 803-0506

Address 1106 Old Joppa Road Joppa MD 21085
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative Michael E. Leaf Phone Number 410 838-2333

Address 112 S. Main Street Bel Air MD 21014
Street Number Street City State Zip Code

Land Description

Address and Location of Property 1106 Old Joppa Road, Joppa, MD 21085
S of Bagleys Corner

Subdivision S of Bagleys Corner Lot Number N/A

Acreage/Lot Size 1.94 ac ± Election District 03 Zoning AG

Tax Map No. 60 Grid No. 1E Parcel 298 Water/Sewer: Private X Public

List ALL structures on property and current use: House, mobile home, 3 sheds

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? No.

Is this property located within the County's Chesapeake Bay Critical Area? Yes No X

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes X No

Is this request within one (1) mile of any incorporated town limits? Yes No X

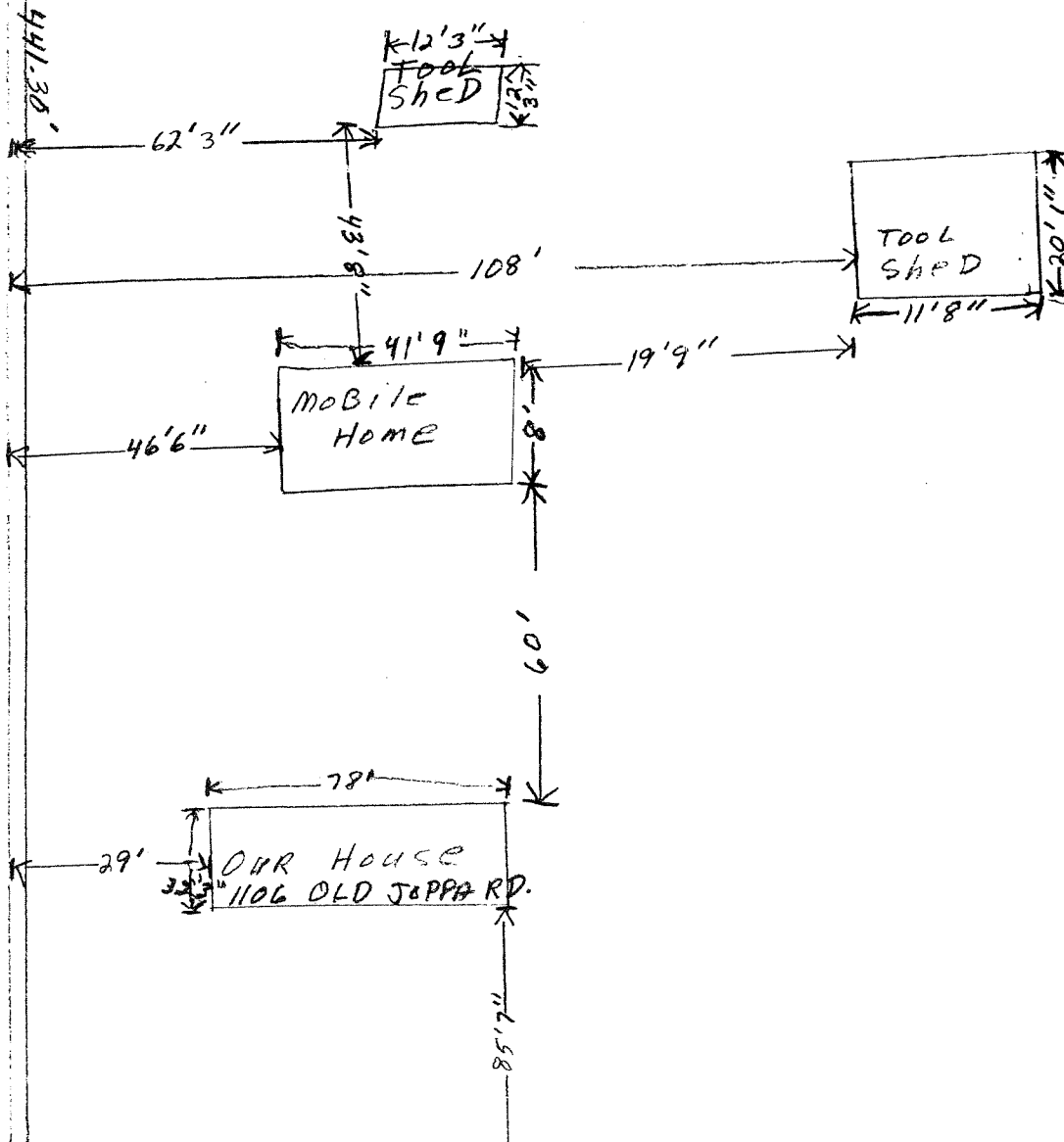
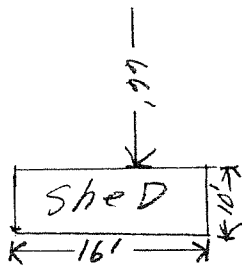
Request

I am requesting a variance to allow cottage house
to be occupied by non-relative, and, if necessary, a variance to allow mobile home
or cottage house on less than two acres.

Justification

Mobile home has been located on lot for approximately 40 years. A non-relative resides in
mobile home and looks after owners who are over 62 years of age. Although deed states
lot consists of 1.94 acres, owner believes lot exceeds 2 acres. Owners own adjoining
parcels.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)



59.104

HARFORD COUNTY DEPARTMENT OF PLANNING AND ZONING

NOTICE OF VIOLATION

LOCATION OF VIOLATION	1106 Old Joppa Road (Map <u>60</u> , Block <u>1E</u> , Parcel <u>298</u>)	ZONING	AG	LOT SIZE	1.94 acres
OCCUPANT	ADDRESS				
PROPERTY OWNER	Mr. and Mrs. Melvin G. Quick, Jr.	ADDRESS	1106 Old Joppa Road, Joppa, Maryland 21085		
MAILED TO	Mr. and Mrs. Melvin G. Quick, Jr.	DATE OF NOTICE	October 1, 2003		

You are hereby notified that an inspection of your property and/or a review of this Department's records on September 16, 2003 confirmed the existence of an activity or a condition on your property which is in violation of the Harford County Zoning Code, as follows:

1. Parked or stored an untagged and/or inoperative vehicle (a Pontiac) without benefit of a six month storage permit, in violation of the Harford County Zoning Code, Section 267-26D, wherein it is required that an approved storage permit (Zoning Certificate) be obtained to conduct specified accessory uses agricultural lots.
2. Conducted outside on property zoned Agricultural, by storing old water heaters and miscellaneous junk and debris, in violation of the Harford County Zoning Code, Sections 267-32, wherein there is no provision for outside storage of such items on property zoned agricultural.
3. Established and maintained a new use which is defined in the Harford County Zoning Code as "commercial vehicle and equipment storage" on the subject property that is zoned agricultural and contains 1.94 acres, by parking/storing a commercial vehicle (a dump truck) and contractors' equipment (two bulldozers) thereon in violation of Section 267-8 of the Harford County Zoning Code, which requires that a zoning certificate be obtained prior to commencing a new use on any lot or parcel of land.
4. Established and maintained a use which is defined in the Harford County Zoning Code as "commercial vehicle and equipment storage" on the subject property that is zoned agricultural and contains 1.94 acres, by parking/storing commercial vehicles and contractors' equipment thereon, in violation of the Harford County Zoning Code, Section 267-32 and 267-53D(1), wherein it is required that Special Exception approval from the Board of Appeals be obtained prior to parking/storing commercial vehicles and/or contractors' equipment on agriculturally zoned property that is a minimum of 2 acres in size. Because Special Exception approval for "commercial vehicle and equipment storage" cannot be granted on property that contains less than 2 acres without first obtaining an area variance from the Board of Appeals, Defendants are maintaining an illegal use of the subject property.
5. Constructed and/or maintained four (4) sheds, on the subject property, without benefit of approved permits, in violation of the Harford County Zoning Code, Sections 267-8 and 267-26B, wherein it is required that an approved permit be obtained prior to locating or constructing any accessory uses or structures on any property.

NOTICE OF VIOLATION

PAGE TWO

Location of Violation	1106 Old Joppa Road	Property Owner	Mr. and Mrs. Melvin G. Quick, Jr.
		Date of Notice	October 1, 2003

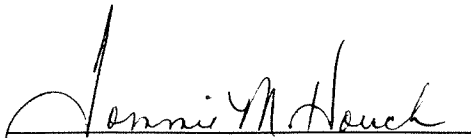
6. Maintained a second dwelling unit on a single parcel of land, in violation of the Harford County Zoning Code, Section 267-22A, wherein it is provided that not more than one principal building for dwelling purposes shall be permitted on any single lot.

Note: Permit No. 8016, dated May 19, 1966, for a one family, one story dwelling with attached garage was conditioned that the existing mobile home shall cease to be used as living quarters once the dwelling is constructed and occupied.

You have TEN (10) calendar days from the Date of Notice above to abate the zoning violation(s). If the violation(s) is not abated, within ten calendar days, or an application is not filed to the Board of Appeals for relief therefrom, you are subject to legal proceedings and monetary fines in the District Court pursuant to Section 267-14, Violations and Penalties, County Zoning Code.

NOTE: No extensions of time beyond the **TEN (10)** calendar days stated above will be approved to correct this zoning violation due to prior violations of the Harford County Zoning Code.

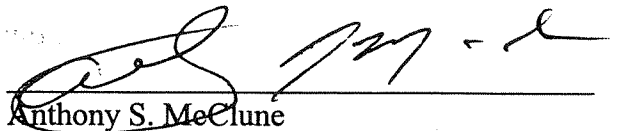
If you have any questions, please call the Zoning Enforcement Offices at 410-638-3103.



Tommie M. Houck
Chief, Zoning Enforcement Section



Robert W. Grammer
Zoning Inspector



Anthony S. McClune
Chief, Current Planning Division

JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION



J. STEVEN KAI-ZIEGLER
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

February 13, 2004

STAFF REPORT

BOARD OF APPEALS CASE NO. 5397

APPLICANT/OWNER: Melvin G. Quick, Jr.
1106 Old Joppa Road, Joppa, Maryland 21085

Co-APPLICANT/OWNER: Eva L. Quick
1106 Old Joppa Road, Joppa, Maryland 21085

REPRESENTATIVE: Michael E. Leaf
112 S. Main Street, Bel Air, Maryland 21014

LOCATION: 1106 Old Joppa Road
Tax Map: 60 / Grid: 1E / Parcel: 298
Election District: Third (3)

ACREAGE: 1.94 acres

ZONING: AG/Agricultural

DATE FILED: January 1, 2004

HEARING DATE: March 10, 2004

APPLICANTS' REQUEST and JUSTIFICATION:

Request:

"A variance to allow cottage house to be occupied by non-relative, and, if necessary, a variance to allow mobile home or cottage house on less than two acres."

Preserving our values, protecting our future

STAFF REPORT

Board of Appeals Case Number 5397

Melvin & Eva Quick

Page 2 of 4

Justification:

"Mobile home has been located on lot for approximately 40 years. A non-relative resides in mobile home and looks after owners who are over 62 years of age. Although deed states lot consists of 1.94 acres, owner believes lot exceeds two acres. Owners own adjoining parcels."

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Sections 267-27B(8)(b)[1] and [8] of the Harford County Code to allow cottage housing in a mobile home on less than two acres (1.94 acres existing) and to be occupied by a non-relative in an AG/Agricultural District.

Sections 267-27B(8)(b)[1] and [8] read as follows:

"[1] On a lot of 2 acres or less the cottage house is located within a dwelling currently on the lot;"

"[8] A relative of the lot owner lives in the other dwelling;"

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The subject property is located on the northwest side of Old Joppa Road, east of Mountain Road (MD Route 152). A location map and a copy of the Applicants' site plan are enclosed with the report (Attachments 1 and 2).

The subject property is located outside of the Development Envelope. Land use designations in this area include Agricultural/AG Residential and Rural Residential. The Natural Features Map reflects parks, Agricultural Preservation Districts and Easements and stream buffer systems. The subject property is located in an area designated as Agricultural/AG Residential, which is defined by the 1996 Master Plan as:

Agricultural/AG Residential – Areas where agriculture is the primary land use. Where developments rights are available, residential development at a density of 1.0 dwelling unit for every 10 acres is possible. Commercial uses within this area are intended to serve the agriculture industry or residents of the area.

Enclosed with the report are copies of portions of the 1996 Land Use Map and the Natural Resources Map (Attachments 3 and 4).

Land Use – Existing:

The existing land uses in the area conform to the overall intent of the Master Plan. There are areas of agricultural uses including cropland, pastureland and dense woodland. There are numerous single-family residential subdivisions in the area. Other land uses include parks, churches and a golf course. Commercial activity is generally located along the Route 1 corridor. Enclosed with the report is a copy of the aerial photograph (Attachment 5).

STAFF REPORT

Board of Appeals Case Number 5397

Melvin & Eva Quick

Page 3 of 4

The Applicants own two parcels on the northwest side of Old Joppa Road. The subject property is rectangular in shape and consists of 1.94 acres. The topography of the site is gently sloping. The improvements consist of a stone and frame dwelling with an attached two-car garage, a mobile home situated approximately 60-feet to the rear of the dwelling. There are three sheds, a well and septic system and two driveways. The property contains large mature trees and shrubbery. Enclosed with the report is a copy of site photographs, a topography map and an enlargement of the aerial photograph (Attachments 6, 7, and 8).

Zoning:

The zoning patterns in the area conform to the intent of the Master Plan as well as the existing land uses. The predominant zoning classifications in the area are AG/Agricultural and RR/Rural Residential. The subject property is zoned AG/Agricultural as shown on the enclosed copy of the zoning map (Attachment 9).

Zoning Enforcement:

The request is the result of a Zoning Enforcement Investigation. The Department received a complaint on July 18, 2003, that parked on site were an untagged dump truck, two untagged vehicles, an untagged camper and two bulldozers in the rear yard. This Department conducted an inspection on July 23, 2003, at which time the inspector spoke with Mrs. Quick. She would not allow the inspector to inspect property and asked that he return when Mr. Quick was home. The inspector was able to view the subject property from an adjoining property, at which time he observed an untagged Pontiac, two small bulldozers, an untagged dump truck and four sheds. There appeared to be old water heaters and miscellaneous junk covered with brush and debris, and an occupied mobile home behind the Applicants' dwelling. It was determined after a review of the permits that the mobile home was to be removed and not used for residential purposes when Mr. Quick's home was constructed.

A notice of violation was issued on October 1, 2003, citing the Applicants in violation of having untagged vehicles, contractor's equipment and storage of said equipment, for the construction of four sheds without permits, and maintaining a second dwelling unit on a single parcel (permit No. 8016 was conditioned that the mobile home was to be removed once the main dwelling was constructed).

A permit was obtained for three sheds on December 2, 2003. The application to the Board of Appeals was filed on January 13, 2004. Enclosed with the report are copies from the Zoning Enforcement file for informational purposes only (Attachment 10).

SUMMARY:

The Applicants are requesting a variance pursuant to Sections 267-27B(8)(b)[1] and [8] of the Harford County Code to allow cottage housing in a mobile home on less than two acres (1.94 acres existing) and to be occupied by a non-relative in an AG/Agricultural District.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the Applicants must show that the request will not be substantially

STAFF REPORT

Board of Appeals Case Number 5397

Melvin & Eva Quick

Page 4 of 4

detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

Sections 267-27B(8)(b)[1] and [8]:

"[1] On a lot of 2 acres or less the cottage house is located within a dwelling currently on the lot;"

A copy of the Applicants' deed was not submitted with the application; however, the tax assessment information states that the subject property (Parcel 298) is 1.94 acres (Attachment 11). The Applicants have listed the property as 1.94± acres on the Board of Appeals application. Without a survey of the property, the Department must assume that the information provided by the Applicants and the tax records is correct. Therefore, a variance from this section is required.

"[8] A relative of the lot owner lives in the other dwelling;"

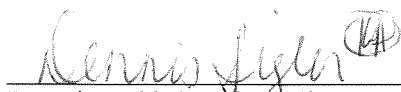
The provisions for Cottage Housing in the Harford County Code define a cottage house as a temporary second dwelling on a single lot. It states that the lot owner must live in one of the two dwellings on the lot and a relative of the lot owner must live in the other dwelling. A relative is defined in the Code as a grandparent, parent, child, brother, sister, aunt or uncle. Therefore, a variance is also required from this provision.

The Department finds that there is nothing unique about the topography or configuration of the property to support the requested variances. The property is similar to other properties found in the neighborhood. Although the Applicants' request is compelling, the Code provides for variances when by reason of the uniqueness of the property or topographical conditions, literal enforcement of the Code would result in practical difficulty or unreasonable hardship. That criterion has not been met in this instance. The Department would offer that the subject request is more similar to a use variance than an area variance.

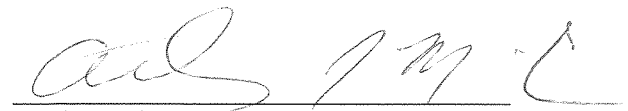
The Board in Case 5302 (January 16, 2003) denied a similar request. Enclosed with the report is a copy of the Board's decision (Attachment 12).

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the requested variances be denied.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/ka